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OEA

SERVICE DATE – FEBRUARY 19, 2013

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB-33 Sub No. 306X**

**Union Pacific Railroad Company — Abandonment Exemption—  
in Cameron County, Tex.**

**And**

**Docket No. AB-1091X**

**Brownsville and Matamoras Bridge Company — Abandonment Exemption —  
in Cameron County, Tex.**

**BACKGROUND**

On December 20, 2012, Union Pacific Railroad Company (UP) and Brownsville and Matamoras Bridge Company (B&M) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10903 to permit: (1) UP to abandon and discontinue the portion of UP's Brownsville Subdivision from milepost 7.4 at Olmito Junction to milepost 0.22 at Brownsville, TX (UP's Brownsville Subdivision); and (2) B&M to abandon its 0.8 mile line from its connection to UP's Brownsville Subdivision near UP milepost 0.41 to the international border with Mexico located near the center-point of B&M's bridge at Brownsville (B&M Bridge Line), a total distance of 7.98 miles in Cameron County, TX. (collectively, the Line). UP and Mexico are the sole shareholders of B&M with each owning a 50 percent interest. A map depicting the Line in relationship to the area served is attached to this Environmental Assessment (EA).

According to UP and B&M (Applicants), the proposed abandonment and discontinuance results from the current construction of an entirely new line of railroad running from Olmito Junction to a new international rail bridge with Mexico located approximately 15 miles up the Rio Grande River from the B&M Bridge that will relocate the UP's rail traffic from downtown Brownsville and Matamoros. The construction of the new rail line and bridge were authorized by Presidential Permit 04-1 issued October 1, 2004. This permit authorizes Cameron County, TX to construct, operate and maintain an international bridge, its approaches and facilities at the international boundary between the United States and Mexico.<sup>1</sup>

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<sup>1</sup> The Department of State is charged with the issuance of Presidential Permits for the construction of international bridges between the United States and Mexico. As part of this

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The Applicants opine that this new line of railroad and international bridge should be completed and operational sometime during 2013. Once this line of railroad and international bridge are open, UP would shift its rail traffic to this new route.

Moreover, the Applicants state that if approved, the abandonment would allow the City of Brownsville and Cameron County to fully realize the benefits of this relocation project, which is fourfold:

1. Removal of the existing rail system from residential and downtown areas of Brownsville and Matamoros, thereby improving safety and reducing congestion and noise.
2. Elimination of existing at-grade crossings in the project area.
3. Reduction of local air emissions from idling vehicles.
4. Reduction of the community's exposure to potential derailments, hazmat accidents and railcar explosions.

If the abandonment and discontinuance are approved, the Applicants state that the northern and eastern portions of the Brownsville area, including the Port of Brownsville would continue to receive rail service from UP, BNSF Railway, and the Rio Grande International Railroad. The Applicants further opine that the area has access to ocean shipping that is available via the Port of Brownsville as well access to a number of local, state, and federal roadways including U.S. Highways 83, 77 and 281.

The Applicants state that, if the proposed action is approved, the Line would likely be transferred to Cameron County and/or the City of Brownsville, TX for interim trails use. According to B&M, the 0.08 mile B&M Bridge would remain under its ownership because that portion of the Line is unsuitable for both public use and interim trail use. B&M also notes that the B&M Bridge may prove useful in the future for the movement of motor vehicle traffic across the border between Mexico and the United States.

## **DESCRIPTION OF THE RAIL LINE**

The Line passes through an area that is generally flat and traverses mixed residential, commercial, industrial and recreational development located in the western city limits and suburbs of Brownsville, TX. The width of the right-of-way is typically 100 feet wide and traverses United States Postal Service Zip Code 78520.

According to UP and B&M, the Line does not contain any reversionary property or federally granted rights-of-way. The Applicants request that the proposed abandonment be exempt from the offer of financial assistance procedures as well as public use provisions. The

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project the Department of Stated issued an environmental assessment with a finding of No Significant Effect.

Applicants also note that the UP right-of-way is suitable for public purposes including roads or highways, other forms of mass transportation, or energy production or transmission.

## **ENVIRONMENTAL REVIEW**

UP and B&M submitted an Environmental Report that concludes that the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. UP and B&M served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Board's environmental rules (49 C.F.R. § 1105.7(b)).<sup>2</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

### ***Diversion of Traffic***

According to the Applicants, no local rail traffic has moved over the Line in more than two years. The Line is currently only used for the overhead movement of UP and BNSF Railway traffic to and from Mexico. Because this proposed action, if approved, would result in the relocation of rail traffic, no rail-to-truck diversions would occur. The Applicants also note that no complaint regarding cessation of service has been filed or is pending. Therefore, OEA believes that there would be no impact on existing regional or local transportation systems or patterns. Further, there would be no effect on the movement and/or recovery of energy resources, recyclable commodities or change in overall energy efficiency.

As noted earlier, shippers located in the northern and eastern portions of the Brownsville area, including the Port of Brownsville would continue to receive rail service from UP, BNSF Railway, and the Rio Grande International Railroad. The Applicants state that the area is served by access to ocean shipping as well numerous local, state, and federal roadways.

### ***Salvage Activities***

If the abandonment is approved, the Applicants would salvage the rail, ties and track materials. However, the railbed, subgrades and all structures, culverts and related items would remain in place and not disturbed. All salvage activities would occur within the existing right-of-way using existing access routes.

The City of Brownsville, TX, in letters dated September 4, 2012 and January 29, 2013 requests that the Board issue a Public Use Condition and an Interim Trail Use Condition rather than outright abandonment. UP has agreed to transfer the right-of-way to Cameron County if the abandonment is approved.

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<sup>2</sup>The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 33 306X and AB 1091X.

The Natural Resources Conservation Service states that it does not normally consider abandonment of an existing railroad a conversion of Important Farmland; therefore, the proposed rail abandonment has received a Farmland Conversion Impact Rating of exempt.

The Applicants state that the Line does not lie within the coastal zone as mapped by the Texas General Land Office. Because we have not received a response from the Texas General Land Office, Coastal Zone Program, OEA will provide a copy of this EA for their review and comment.

According to UP and B&M there are no known hazardous materials waste sites or sites where known hazardous material spills have occurred on or along the Line.

OEA conducted a search the U.S. Fish and Wildlife Service's (USFWS) website<sup>3</sup> to search for any species of concern in Cameron County, TX. The USFWS website lists the following species as threatened and endangered:

- Northern aplomado falcon (*Falco femoralis septentrionalis*) – Endangered
- Piping Plover (*Charadrius melodus*) – Threatened
- South Texas ambrosia (*Ambrosia cheiranthifolia*) – Endangered
- Texas ayenia (*Ayenia limitaris*) – Endangered
- West Indian Manatee (*Trichechus manatus*) – Endangered
- Gulf Coast Jaguarundi (*Herpailurus (=Felis) yagouaroundi cacomitli*) – Endangered
- Ocelot (*Leopardus (=Felis) pardalis*) – Endangered
- Hawksbill sea turtle (*Eretmochelys imbricate*) – Endangered
- Leatherback sea turtle (*Dermochelys coriacea*) – Endangered
- Kemp's ridley sea turtle (*Lepidochelys kempii*) – Endangered
- Green sea turtle (*Chelonia mydas*) – Threatened
- Loggerhead sea turtle (*Caretta caretta*) - Threatened

In their Environmental and Historic Report, the Applicants state that the Line is currently subject to active maintenance and vegetation control; therefore there should be no impact to wildlife and vegetation as none currently exist. The Applicants also state that they are agreeable to arranging for a nesting survey of migratory birds in the instance that salvage activities extend into the migratory bird nesting period of March through August.

The USFWS states that the proposed right-of-way (ROW) is located near the Lower Rio Grande Valley National Wildlife Refuge. The ROW is also adjacent to a Fish Hatchery under jurisdiction of the USFWS, to a reservoir that is potential habitat for wildlife species and migrating birds and animals, and crosses a waterway/irrigation canal. Accordingly, OEA will

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<sup>3</sup> U.S. Fish and Wildlife Website, Find Endangered Species:  
<http://www.fws.gov/endangered> (last accessed February 13, 2013).

recommend a condition requiring UP and B&M to consult with the USFWS, Ecological Services, Alamo sub-office.

The National Park Service has not responded to the railroad's environmental report. OEA has provided a copy of this EA to the National Park Service for review and comment.

According to the Applicants, they are currently in consultation with the U.S. Army Corps of Engineers, Corpus Christi Office (Corps) regarding the need for any permits under Section 404. The Applicants state that they will notify the Board regarding the outcome of those discussions. The Applicants note that they do not anticipate that there will be any requirements for Section 402 permits. Accordingly, OEA will recommend a condition requiring UP and B&M to consult with the Corps and the Texas Commission on Environmental Quality, Water Program.

In an email dated September 19, 2012, the U.S. Department of Commerce, National Geodetic Survey states that there are approximately four geodetic station markers located in the area of the proposed abandonment. OEA will recommend that UP and B&M consult with the NGS prior to the commencement of any salvage activities to allow for relocation of any affected survey markers.

Based on all information available to date, OEA does not believe that the proposed abandonment would result in significant environmental impacts.

## **HISTORIC REVIEW**

In its Historic Report, UP and B&M state that the Line does not contain any structures that are 50 years old or older and that it does not contain any federally granted rights-of-way. However, UP offered a correction noting that the Brownsville Subdivision portion of Line does contain two open deck bridge structures that are 50 years old or older. The bridges are located at mileposts 6.21 and 6.72.

According to the Applicants, the Line was originally constructed in 1904 by the St. Louis, Brownsville and Mexico Railway Company (StLBMRC). The StLBMRC was originally chartered on June 6, 1903 to run from Sinton, TX to the Rio Grande River at Brownsville, TX with a branch extending westerly to the southeast corner of Starr County, a distance of 200 miles. It was originally intended that the railroad would form one of the sections of a continuous rail line from Chicago; St. Louis, and Memphis to Baton Rouge, Houston, Brownsville, Tampico, and Mexico City, Mexico. By the early 1930's the railroad owned a 25 percent interest in the Houston Belt and Terminal Railway Company and a 50 percent interest in the Brownsville and Matamoros Bridge Company. The StLBMRC was acquired by the Missouri Pacific Line on January 1925 but continued to operate as a separate company until it was merged into the Missouri Pacific Railroad Company on March 1, 1956.<sup>4</sup> The Missouri Pacific Railroad

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<sup>4</sup> Historical discussion can be found at:  
<http://www.tshaonline.org/handbook/online/articles/eqs30>

Company was acquired by UP on January 1, 1997.

The B&M Bridge Line was constructed in 1909, including the international bridge, which was designed to handle both rail and vehicular traffic. A dedicated vehicular bridge was constructed adjacent to the original structure in 1997.

UP and B&M served the Historic Report as required by the Board's environmental rules (49 C.F.R. § 1105.8(a)) and served the report on the Texas Historical Commission (SHPO) pursuant to 49 C.F.R. § 1105.8(c).<sup>5</sup> In a letter dated June 13, 2012, the SHPO offers an opinion that the Line that includes the two bridges located at milepost 6.21 and milepost 6.72, excluding the B&M Bridge, that no historic properties are affected. However, the SHPO states that the B&M Bridge is eligible under Criterion A for Transportation and Criterion C for Engineering. Therefore, the SHPO requests that further coordination is required regarding the B&M Bridge before it can complete its review. Furthermore, the SHPO suggests that the Board coordinate with the following interested parties who may have interest in the B&M Bridge: U.S. Department of State, U.S. Army Corps of Engineers, International Boundary and Water Commission, U.S. Customs & Border Protection. OEA is providing these agencies with a copy of this EA for review and comment.

As noted earlier, B&M intends to retain ownership of the 0.08 mile B&M Bridge because that portion of the Line is unsuitable for both public use and interim trail use. B&M also notes that the B&M Bridge may prove useful in the future for the movement of motor vehicle traffic across the border between Mexico and the United States.

Pursuant to the Section 106 regulations of the National Historic Preservation Act at 36 C.F.R. § 800.4(d)(1), and following consultation with the SHPO and the public, we have determined that the proposed abandonment of the Line, excluding the B&M Bridge, would not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 C.F.R. § 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public through posting on the Board's website at <http://www.stb.dot.gov>.

However, with respect to the B&M Bridge, we are recommending a condition requiring the UP and B&M to retain their interests in and take no steps to alter the historic integrity of the B&M Bridge which may be eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process.

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<sup>5</sup> Guidance regarding the Board's historic preservation review process is available on the Board's Web site at: <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>6</sup> The database indicated that there are no tribes that may have knowledge regarding properties of traditional religious and cultural significance within the right-of-way (the APE) of the proposed abandonment.

## **CONDITIONS**

We recommend that the following conditions be imposed on any decision granting abandonment authority.

- 1. Union Pacific Railroad Company and Brownsville and Matamoras Bridge Company shall consult with the National Geodetic Survey at least 90 days prior to the beginning of salvage activities that will disturb or destroy any geodetic station markers.**
- 2. Union Pacific Railroad Company (UP) and Brownsville and Matamoras Bridge Company (B&M) shall consult with the U.S. Fish and Wildlife Service (USFWS), Alamo Ecological Services Sub-Office regarding potential impacts to the fish hatchery, lands managed by the USFWS, and to migratory birds and animals. If requested by the USFWS, UP shall conduct a nesting survey of migratory birds if salvage activities extend into the migratory bird nesting period of March through August.**
- 3. Union Pacific Railroad Company (UP) and Brownsville and Matamoras Bridge Company (B&M) shall consult with the U. S. Army Corps of Engineers, the Texas Commission on Environmental Quality, Water Quality Division regarding the need for Section 402, Section 404 or other water related permits.**
- 4. Union Pacific Railroad Company (UP) and Brownsville and Matamoras Bridge Company (B&M) shall retain their interest in and take no steps to alter the historic integrity of the B&M Bridge that may be eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. UP and B&M shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the SHPO and the public. UP and B&M may not file its consummation notice or initiate any salvage activities related to the B&M Bridge (including removal of tracks and ties from the trestle bridge) until**

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<sup>6</sup> Native American Consultation Database, [http://grants.cr.nps.gov/nacd/NACD\\_Search\\_Page\\_Query\\_Results.cfm](http://grants.cr.nps.gov/nacd/NACD_Search_Page_Query_Results.cfm) (last visited February 13, 2013).

**the Section 106 process has been completed and the Board has removed this condition.**

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, that abandonment of the Line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Troy Brady, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 33 306X and AB 1091X in all**



**correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this Environmental Assessment, please contact Troy Brady, the environmental contact for this case, by phone at (202) 245-0301, fax at (202) 245-0454, or e-mail at [Troy.Brady@stb.dot.gov](mailto:Troy.Brady@stb.dot.gov).

Date made available to the public: February 19, 2013.

**Comment due date: March 20, 2013.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment